IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-11-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.11732 of 1999

C.Vijayalakshmi .. Petitioner.

Versus

1.The District Collector
Pudukottai, Pudukottai District.

2.The Special Deputy Tahsildar
Flying Squad,
Pudukottai, Pudukottai District. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari to call for the entire records relating to the impugned order on the file of the first respondent in his proceedings Rc.No.6236/99-K2 dated 28.2.1999 and quash the same.

For petitioner : Mr.C.Prakasam
For respondents : Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.C.Prakasam, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

2. It is submitted by the learned counsel appearing for the petitioner that 165 bags of rice, which were being transported from Vijayalakshmi Modern Rice Mill, Sivapuram in Pudukottai District to Sri Bala Muruga Traders at Coimbatore had been seized on 3.2.1999, alleging that goods had been transported with ulterior motive to carry on illicit business. It has been alleged that the goods were being transported from a monopoly area to a non-monopoly area and that there was no bill at the time of the interception of the vehicle.

3.The main contention of the petitioner is that the allegations made by the respondents are false and it is for the respondents to substantiate them with sufficient roof.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. It is submitted by the learned counsel appearing on behalf of the respondents that as against the impugned order passed by the first respondent, a statutory appeal is available to the petitioner, under Section 6-C of the Essential Commodities Act, 1955. Section 6-C of the Essential Commodities Act, 1955, reads as follows:

> 6-C.Appeal.- (1) Any person aggrieved by an order of confiscation under Section 6-A may, within one month from the date of the communication to him of such order, appeal to the State Government concerned and the State Government shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.
>
> (2) Where an order under Section 6-A is modified or annulled by the State Government, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such persons shall, except as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined -
>
> (i) in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3-B) of section 3;
>
> (ii) in the case of sugar, in accordance with the provisions of sub-section (3-C) of section3 ; and
>
> (iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.

5. However, the learned counsel appearing for the petitioner had submitted that at the time of the filing of the writ petition, the appellate authority had not been designated, as provided under the Act. Therefore, the petitioner has come before this Court, by way of filing the present writ petition, under Article 226 of the Constitution of India. It is submitted that at present the concerned District Courts have been designated as the appellate forum, under Section 6-C of the Essential Commodities Act, 1955, to hear and decide the appeals.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6. Considering the facts and circumstances of the case, the petitioner is granted liberty to file an appeal before the designated appellate authority, as provided under the law, within a period of four weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority is expected to dispose of the same, expeditiously.

The writ petition is disposed of with the above direction. No costs.

rpa

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector
Pudukottai, Pudukottai District.

2.The Special Deputy Tahsildar
Flying Squad, Pudukottai,
Pudukottai District.

+ One cc to Mr. C. Prakasam, Advocate SR 69446

+ One cc to Govt Pleader, High Court, Madras.104.

KS (co)

sg 04/12/07

Writ Petition No.11732 of 1999

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/